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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,597	03/13/2001	Carolyn W. Hall	HALL-101	4573

7590  
Robert K. Tendler  
65 Atlantic Avenue  
Boston, MA 02110

06/18/2003

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 06/18/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Interview Summary</b>	Application No. 09/808,597	Applicant(s) HALL ET AL.	
	Examiner Kathleen M Christman	Art Unit 3713	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Kathleen M Christman. (3) Carolyn Hall (named inventor).  
 (2) Robert Tendler (24,581). (4) \_\_\_\_\_.

Date of Interview: 12 June 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-24.

Identification of prior art discussed: Fargano.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Kathleen M Christman  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The applicant has described that the invention is drawn to the delivery of behavior modification lessons and has proposed adding a new preamble reading "A method for behavioral modification" and an amendment to at least the independent claims to include a similar limitation. A proposal for this limitation is "providing at an Internet Site a course of instruction having a number of guided practice activities, each of said guided practice activities including information on how to modify a behavior". The examiner agrees that the addition of these limitations will distinguish the claimed invention from the Fargano patent. However, the examiner believes that these limitations are directed to a new issue not previously presented and as such will require further search and will not be accepted if filed in an after final amendment. The applicant has agreed to file a request for continued examination, which will include these limitations. The examiner has requested that the applicant provide a citation from the specification distinguishing the definition or concept of the guided practice actives. Applicant has agreed to provide this reference.

## Applicant Initiated Interview Request Form

Application No.: 09/508557 First Named Applicant: CAROLYN WALL  
 Examiner: K. CHRISTIAN Art Unit: 3713 Status of Application: FINAL RET.

## Tentative Participants:

(1) ROBERT K. TENDLER (2) CAROLYN WALL  
 (3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: 6/12/03 Proposed Time: 10 (AM/PM)

## Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

## Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>REJECTION</u>	<u>ALL CLAIMS</u>	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

## Brief Description of Arguments to be Presented:

SEE ATTACHED DRAFT AMENDMENT

An interview was conducted on the above-identified application on \_\_\_\_\_

## NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Robert K. Tandler  
 (Applicant/Applicant's Representative Signature)

K. Christian  
 (Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Carolyn W. Hall, et al.	Examiner:	Christman, K.
Application No:	09/808,597	Art Unit:	3713
Filing Date:	03/13/2001		
Title:	Method & Apparatus for Behaviorally Reinforced Training with Guided Practice		
Atty. Docket:	HALL-101		

*PROPOSED* AMENDMENT

Commissioner of Patents & Trademarks  
U.S. Patent and Trademark Office  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action of June 30, 2003 please amend the above-identified

Application as follows:

In the Claims, please amend the Claims as follows:

### AMENDMENTS TO THE CLAIMS

Claim 1 (Currently amended): A method for increasing retention in the learning process, comprising the steps of:

providing at an Internet site a course of instruction having a number of ~~mini-lessons~~, guided practice activities each including a learning task including a guided practice activity to be performed by an individual; and,

automatically transmitting the learning task to the individual at a preselected times not disruptive to the individual such that the learning tasks are performed multiple times during the day, thus to provide the individual with an active learning experience through guided practice activity pushed from the Internet site at preselected times during the day at which the individual is expecting receipt of a mini-lessons.

Claim 2 (Currently amended) The method of Claim 1, wherein the learning tasks are transmitted to the individual at times preselected by the individual such that the learning tasks are not disruptive.

Claim 3 (Currently amended): The method of Claim 1, and further including the steps of providing ~~responses of the individual to~~ acknowledgement of receipt of a learning task and transmitting the ~~responses~~ acknowledgement back over the Internet to the Internet site.

Claim 4 (Currently amended): The method of Claim 3 1, and further including altering providing the individual additional learning tasks from the Internet site ~~responsive to the responses of the individual to prior learning tasks from the Internet site.~~

Claim 5 (Original): The method of Claim 1, wherein the individual learning tasks from the Internet site are time limited so as not to interfere with the normal tasks of the individual.

Claim 6 (Previously cancelled)

Claim 7 (Cancelled):

Claim 8 (Currently amended): The method of Claim 7 1, and further including the steps of ~~following a mini-object lesson with a more limited follow-up activity~~ preceding a guided practice activity with a mini-lesson.

Claim 9 (Currently amended): The method of Claim 2 1, ~~wherein the~~ and further including a learning task device is to which the learning task is transmitted selected from the group of internet-enabled learning task ~~connected~~ devices consisting of computers, mobile phones, paggers, personal digital assistants and voice over Internet IP audio producing terminals.

Claim 10 (Original): The method of Claim 1, wherein the automatic transmission is at a pace so as not to disrupt the individual during his workday.

Claim 11 (Previously amended): The method of Claim 1, wherein the learning tasks include experiential learning in which the individual is prompted to respond with some action.



Claim 12 (Previously amended): The method of Claim 3, wherein the receipt of a learning task is indicated by the response of the individual to the learning task.

Claim 13 (Original): The method of Claim 1, wherein the learning task is designed to improve competency in the workplace.

Claim 14 (Original): The method of Claim 1, wherein the learning task is designed to teach an athletic activity.

Claim 15 (Currently amended): The method of Claim 1, wherein the ~~activity~~ learning task is golf.

Claim 16 (Original): The method of Claim 1, wherein the learning task is designed to empower women to react to specific workplace encounters with positive results.

Claim 17 (Original): The method of Claim 1, wherein the learning task is designed to improve the response of the individual to health related issues.

Claim 18 (Original): The method of Claim 17, wherein the health related issues includes controlling the weight of the individual.

Claim 19 (Original): The method of Claim 17, wherein the health related issues includes addiction.

Claim 20 (Original): The method of Claim 17, wherein the health related issues includes the taking of medication.

Claim 21 (Currently amended): A system for assisting the learning of an individual comprising:

a website coupled to the Internet;

a course of study available at said website including mini-lessons having a content describing the behavior to be practiced and guided practice activities available at said website;

means for automatically transmitting to the individual said mini- ~~content~~ lessons and thereafter said guided practice activities in the form of tasks to the individual at predetermined times during the day ~~not disruptive to the individual;~~ and,

a ~~task-reporting~~ device available to the individual and coupled to the Internet for receiving the automatically transmitted mini- ~~content~~ lessons and guided practice activities and prompting the individual to respond thereto.

Claim 22 (Currently amended): The system of Claim 21, wherein said ~~task-reporting~~ device includes a response entry device coupled to the Internet for transmitting an acknowledgement of receipt of said automatic transmission by a response of the individual back to said website, thus to indicate that the individual has received the mini-content lesson.

Claim 23 (Currently amended): The system of Claim 22, and further including at said website data storage for recording said ~~response~~ acknowledgement.

Claim 24 (Currently amended): The system of Claim 23 and further including course ~~altering~~ enhancement means at said website for altering enhancing the content of said mini- ~~content~~ lessons ~~responsive to said response~~ and said guided practice activities.

### REMARKS

The Examiner's action of May 30, 2003 is noted and the independent claims have been amended to more particularly point out what Applicants claim as their invention. As will be seen the claimed invention is completely different from the invention described by Fargano.

The following is included to show the unobviousness of the claimed invention:

The intrinsic differences between the Fargano process and the claimed invention are as follows:

1. The learning goals are different

- a. Fargano – Knowledge-based Assessment Questions - builds skills by testing knowledge. The goal is to improve the knowledge of the correct answers to skills and knowledge based questions (challenges).
- b. Hall – Behaviorally-based Practice Activities - builds skills by driving behavioral practice through guided practice activities. The goals are to improve behavior by practicing specific cumulative pieces of the behavior.

2. The process as it relates to the learner is opposite

a. Fargano – Is a “Closed System” as it relates to the learner –i.e., small questions that require *timed* answers and are *authenticated* so the learner cannot “*cheat*” which implies that the learner is expected to complete each challenge without outside help (“closed to the outside” – learner is expected to complete process based on his/her own knowledge).

b. Hall – Is an “Open System” as it relates to the learner – i.e., mini-lessons (or MCOs – mini-content objects) describing the desired behavior are followed by practice activities that direct the learner to interact with others to practice and perfect the behavior *without* a time limit and with *no* requirement for authentication of the transmissions since

cheating isn't a consideration largely because the learner is required to practice with others in order to master the behavior ("open to the outside" – learner is expected to interact and practice with others and should continue the practice over time in order to establish habitual behaviors).

3. Functionality is inherently different

- a. Fargano – is an assessment (challenge) system designed to send structured questions (challenges) that assess the knowledge of the learner. All interactions with the learner must be authenticated. Each subsequent challenge question is chosen by the database based on performance on the previous challenge. These can be timed so the learner may be surprised by the challenge and each challenge requires an authenticated, timed answer before the next challenge will be sent.
- b. Hall – is a guided practice system designed to send behavioral descriptions followed by activities to guide the practice of the behaviors. There is no requirement for authentication because the behaviors must be practiced interactively and will improve over time. The only validation required is to identify a learner so the next activity can be sent. These activities are not dependent on previous responses and will be consistent for all learners in the same curriculum path. The timing of practice delivery is set by the learner and is always known to the learner and is not dependent upon completion of the practice activity that came before. Delivery of the learning is triggered by each mini-lesson (which will be followed by a set number of guided practice activities). The process includes a scored assessment but this does not change the level or difficulty of the subsequent mini-lessons, instead it sends additional practice activities to encourage the learner to expand their practice of the

behavior. As noted in the examples (i.e., a business exec querying the system for behavioral information related to tipping, etc.), the "response" capability allows the learner to query the system and increase their ability to practice behaviors. These are not scored nor do they change the subsequent content or practice activities that will be sent to the learner.

4. Technology use of the two systems:

- a. Fargano states that challenges will be issued using "at least one voice channel" among the many other options called out expressly in the description. Hall states that all interaction will be delivered using IP. There will be no live voice and all exchanges will require some form of Internet.
- b. The Fargano system expressly uses a plurality of delivery methods that include all wired and wireless options. The packaging of the challenges does not depend upon a single protocol but is keyed on the use of telecommunications for delivery. Fargano uses all the delivery methods made available through the telecommunications industry but does not define the packaging method of the content.
- c. The Hall system expressly uses the Internet Protocol to be delivered via methods open to IP. This is the reverse of the Fargano system – i.e., the packaging of the content is critical but the delivery is open to any telecomm method that is capable of carrying IP. Hall strictly focuses on the Internet Protocol and the delivery methods available through IP.
- d. Reasoning: Just because a Jeep and a motorcycle could use the same highways they are not the same things.

5. Could the type of content described by Fargano be delivered using the Hall process –  
NO

6. Could the type of content described by Hall be delivered using the Fargano process –  
NO

7. Are the two processes each good learning systems? Unequivocally YES. As a matter of fact, the Hall process would be a perfect follow-on process to the Fargano process because Fargano identifies and builds knowledge and Hall could follow-on to allow the learner to practice the knowledge and skills in actual work (or life) situations.

a. A key example of how different the two learning processes are is seen in the examples of what the Fargano process could teach. When considering "Fault Management (for example, exceptions to normal behavior)" look at how the two systems would handle this learning:

- i. Fargano would send questions to the learner to identify current knowledge and continually challenge incorrect concepts of behavior through time challenges that are authenticated, scored, and then keyed to send out the correct level of challenge for the subsequent questions. Learning would be accomplished based on the learner's knowledge and ability to answer the challenges and recognized the incorrect responses.
- ii. Hall would assess the existing behaviors and compare to the desired behaviors then create a curriculum to send descriptions of small behavioral improvements and interactive practice activities. Learning would be accomplished based on the learner's ability to incorporate the descriptions and practice of the desired behaviors over time.

8. The Fargano process would not be capable of delivering the Sports content as we've described it. Fargano is targeted on correcting knowledge gaps. Hall is targeted on guiding correct practice. It is guiding correct practice that has been identified to be at the core of improved physical performance. In other words, success in sports is dependent more on what you can *do* than what you *know*.

In summary, nowhere in Fargano is shown or taught guided practice. Thus the claimed invention is neither shown nor taught by Fargano. Fargano is knowledge based (answer a question and get a grade) versus Hall et al., which is behavior modification through guided practice.

In view of the above Amendment, allowance of the claims and issuance of the case is earnestly solicited. Alternatively, entry of this Amendment for purposes of Appeal is requested.

Respectfully Submitted,

Robert K. Tendler  
Reg. No.: 24,581

Date: \_\_\_\_\_  
Tel: (617) 723-7268